

AG Contract No.: KR04-1033TRN
ADOT ECS File No.: JPA 04-065
Project No.: HES-YYU-0-(029)
Project: Design - Intersection Improvement
Section: County 8th St. - Somerton Ave.
TRACS No.: SH282 03D
Budget Source Item No.: N/A

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
YUMA COUNTY, ARIZONA

THIS AGREEMENT is entered into 8th October, 2004, pursuant to Arizona Revised Statutes § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the YUMA COUNTY, ARIZONA, acting by and through its CHAIRMAN and BOARD OF SUPERVISORS (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 and § 28-334 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes § 11-251, § 11-951 and § 28-6701 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.

3. Congress has authorized appropriations for, but not limited to, the design of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

4. A project within the boundary of the County has been selected by the County, has been submitted to the State and Federal Highway Administration (FHWA) for their approval.

5. The County, in order to obtain federal funds for the design of the project, is willing to provide County funds to match federal funds in the ratio required or as finally fixed and determined by the County and FHWA.

6. The interest of the State in the project is in the acquisition of federal funds for the use and benefit of the County by reason of federal law and regulations under which funds for the project are authorized to be expended.

NO. 27141
Filed with the Secretary of State
Date Filed: 10/08/04
Janice K. Brewer
Secretary of State

By: Dwight D. Graenewold

7. The work encompassed in this Agreement is to design safety improvements consisting of the roadway realignment for the intersection of County 8th Street and Somerton Avenue. The estimated costs are as follows:

<u>TRACS No. SH282 03D</u>	
Total Estimated Design Cost	\$52,695.00
Federal Aid Funds @ 94.3% of \$47,695.00 (Safety Funds - Lump Sum)	\$44,976.00
County Funds @ 5.7% of \$47,695.00	\$ 2,719.00
ADOT PE Review Cost	<u>\$ 5,000.00</u>
<i>Estimated Total County Funds</i>	<i>\$ 7,719.00</i>

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

- a. Reimburse the County with federal funds for design work addressed under this Agreement at 94.3% of the project cost at \$ 47,695.00.
- b. As required by the FHWA, provide design review of the project plans, studies and related documents, and when appropriate provide comments which will be incorporated into the design documents.
- c. Enter into a Project Agreement with FHWA on behalf of the County covering the work encompassed in this Agreement and will request the maximum federal funds available. Should costs exceed the maximum federal funds available, it is understood and agreed that the County will be responsible for any overage.
- d. Should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent or scope of the work called for in this Agreement become necessary, the State shall not be obligated to incur any expenditure in the project.

2. The County will:

- a. Provide any required preliminary engineering and planning studies, the environmental analysis and design of the project.
- b. Agree that the cost of the analysis and design work covered by this Agreement is to be borne by FHWA and the County, each in the proportion prescribed and determined by FHWA.
- c. Agree to set aside funds in an amount equal to the difference between the total cost of the work provided for in this Agreement and the amount of federal aid received.
- d. May request the State to be an authorized agent for the County, and all at County's expense, to perform certain work and prepare certain documents required by the FHWA to qualify certain, highway, bridge and railroad grade crossing projects for and to receive federal funds. Such work may consist of, but is not specifically limited to, the review and approval of the County prepared environmental documents, the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials

testing and analysis; right-of-way related activities (when specifically authorized by, for and on behalf of the County, and at no cost to the State) and such other related tasks essential to the achievement of the objectives of this Agreement.

e. Should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent or scope of the work called for in this Agreement become necessary, the County shall be obligated to incur and pay for said increase costs.

f. Should unforeseen conditions or circumstances change or increase the cost of the project above and beyond the County's budget for the project, the County may terminate the project prior to award of the contract and any cost provided for services incurred by the State shall be refunded by the County to the State.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction project. The County, in regard to the County's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the County and that to the extent permitted by law, the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

2. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion of said project and related deposits or reimbursement.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this contract.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds. Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue Mail Drop 616E
Phoenix, AZ 85007
FAX: (602) 712 7424

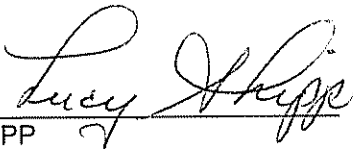
Yuma County
Yuma County Engineer
2703 S. Avenue B
Yuma, AZ 85364
TEL: (928) 329 2300

10. Pursuant to Arizona revised Statutes § 11-952, (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written

YUMA COUNTY, ARIZONA
Board of Supervisors

STATE OF ARIZONA
Department of Transportation

By 
LUCY SHIPP
Chairman

By 
SUSAN TELLEZ
Contract Administrator

ATTEST

By 
SUE STALLWORTH
Clerk of the Board

OFFICE OF THE
BOARD OF SUPERVISORS
198 Main Street
Yuma, Arizona 85364

DAVID R. GARCIA
COUNTY ADMINISTRATOR



LENORE LOROÑA STUART
DISTRICT 1
LUCY SHIPP
DISTRICT 2
CASEY PROCHASKA
DISTRICT 3
MARCO A. (TONY) REYES
DISTRICT 4
ROBERT J. (BOB) McLENDON
DISTRICT 5

STATE OF ARIZONA)

SS.

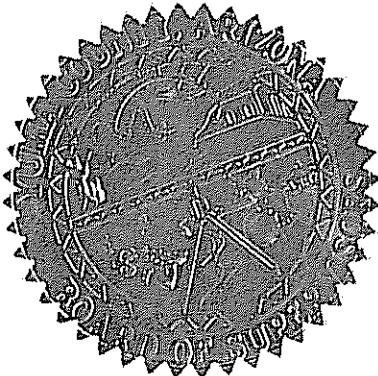
COUNTY OF YUMA)

I, Sue Stallworth, Clerk of the Board of Supervisors, do hereby certify that I am required by law to maintain custody of the minutes of the Yuma County Board of Supervisors, and that the following is a true and correct copy of the portion of the minutes of the Board of Supervisors' meeting held September 8, 2004.

Supervisor Prochaska made a motion, seconded by Supervisor McLendon, to approve the Intergovernmental Agreement with the State of Arizona/Department of Transportation for the Roadway Re-alignment at the intersection of Somerton Avenue and County 8th Street. The motion carried.

In Witness Whereof, I have hereunto set my hand and affixed the Official Seal of the Board of Supervisors. Done at Yuma, the County Seat, this 16th day of September, 2004

SUE STALLWORTH,
Clerk of the Board



APPROVAL OF THE YUMA COUNTY ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the YUMA COUNTY, an agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 20 day of August, 2004.

Lou A. Butler

 County Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-1033TRN (**JPA 04-065**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: September 30, 2004

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan Davis", written over a horizontal line.

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section